

**AGENDA
URBAN COUNTY PLANNING COMMISSION
SUBDIVISION ITEMS**

November 10, 2011

- I. **CALL TO ORDER** - The meeting will be called to order at 1:30 p.m. in the Council Chambers, Urban County Government Building, 200 East Main Street, Lexington, Kentucky.
- II. **APPROVAL OF MINUTES** – None will be considered at this time.
- III. **POSTPONEMENTS OR WITHDRAWALS** – Requests for postponement and withdrawal will be considered at this time.
- IV. **LAND SUBDIVISION ITEMS** - The Subdivision Committee met on Thursday, November 3, 2011, at 8:30 a.m. The meeting was attended by Commission members: Frank Penn, Will Berkley, Derek Paulsen, Eunice Beatty, Mike Owens and Marie Copeland. Committee members in attendance were: Hillard Newman, Division of Engineering; and Jeff Neal, Division of Traffic Engineering. Staff members in attendance were: Bill Sallee, Cheryl Gallt, Chris Taylor, Denice Bullock, Jimmy Emmons and Barbara Rackers, as well as Captain Charles Bowen, Division of Fire & Emergency Services and Rochelle Boland, Law Department. The Committee made recommendations on plans as noted.

General Notes

The following automatically apply to all plans listed on this agenda unless a waiver of any specific section is granted by the Planning Commission.

- 1. All preliminary and final subdivision plans are required to conform to the provisions of Article 5 of the Land Subdivision Regulations.*
- 2. All development plans are required to conform to the provisions of Article 21 of the Zoning Ordinance.*

- A. **NO DISCUSSION ITEMS** – Following requests for postponement or withdrawal, items requiring no discussion will be considered.

Criteria:

- (1) the Subdivision Committee recommendation is for approval, as listed on this agenda, and
- (2) the Petitioner agrees with the Subdivision Committee recommendation and conditions listed on the agenda, and
- (3) no discussion of the item is desired by the Commission, and
- (4) no person present at this meeting objects to the Commission acting on the matter without discussion, and
- (5) the matter does not involve a waiver of the Land Subdivision Regulations.

- B. **DISCUSSION ITEMS** – Following requests for postponement, withdrawal and no discussion items, the remaining items will be considered.

The procedure for consideration of these remaining plans is as follows:

- Staff Report(s)
- Petitioner's Report(s)
- Citizen Comments – (a) in support of the request, and (b) in opposition to the request
- Rebuttal – (a) petitioner's comments, (b) citizen comments, and (c) staff comments
- Commission discusses and/or votes on the plan

1. FINAL SUBDIVISION PLANS

- a. PLAN 2011-113F: GESS PROPERTY, UNIT 6-I (12/31/11)* - located at 4148-4156 Needlerush Drive.
(Council District 7) **(EA Partners)**

The Subdivision Committee Recommended: **Approval**, subject to the following conditions:

1. Urban County Engineer's acceptance of drainage, storm and sanitary sewers.
2. Urban County Traffic Engineer's approval of street cross-sections and access.
3. Building Inspection's approval of landscaping.
4. Addressing Office's approval of street names and addresses
5. Urban Forester's approval of tree protection area(s) and required street tree information.
6. Addition of utility and street light easements as required by the utility companies and the Urban County Traffic Engineer.
7. Exactions to the approval of the Division of Planning.

2. DEVELOPMENT PLANS

- a. DP 2011-89: CARE INN OF LEXINGTON (WHITE & CURLESS PROPERTY) (AMD) (12/31/11)* - located at 2770 Palumbo Drive. (Council District 7) **(Midwest Engineering)**

Note: The purpose of this amendment is to add a porte-cochere, to reduce the parking and to correct a street cross-section.

* - Denotes date by which Commission must either approve or disapprove plan.

The Subdivision Committee Recommended: **Approval**, subject to the following conditions:

1. Urban County Engineer's acceptance of drainage, storm, and sanitary sewers.
2. Urban County Traffic Engineer's approval of street cross-sections and access.
3. Building Inspection's approval of landscaping and landscape buffers.
4. Addressing Office's approval of street names and addresses.
5. Urban Forester's approval of tree protection plan.
6. Bike and Pedestrian Planner's approval of bike trails and pedestrian facilities.
7. Division of Fire's approval of emergency access and fire hydrant locations.
8. Division of Waste Management's approval of refuse collection.

- b. DP 2011-90: BREAD BOX LEXINGTON (12/31/11)* - located at 501 West Sixth Street.
(Council District 1) **(Studio Ives Architect)**

The Subdivision Committee Recommended: **Approval**, subject to the following conditions:

1. Urban County Engineer's acceptance of drainage, storm, and sanitary sewers.
2. Urban County Traffic Engineer's approval of street cross-sections and access.
3. Building Inspection's approval of landscaping and landscape buffers.
4. Addressing Office's approval of street names and addresses.
5. Urban Forester's approval of tree protection plan.
6. Division of Fire's approval of emergency access and fire hydrant locations.
7. Division of Waste Management's approval of refuse collection.
8. Remove historic property lines & complete written scale.
9. Clarify cross-sections, including right-of-way and improvements.
10. Resolve building/property line discrepancy along railroad right-of-way.
11. Document Board of Adjustment's approval regarding the extension of I-1 regulations into the R-3 zoning of the property.
12. Clarify building coverage, open space and floor area site statistics.
13. Clarify purpose of internal KU easement.
14. Clarify property uses (in parentheses).
15. Resolve zone-to-zone and vehicular use area screening.
16. Addition of grease trap note to the approval of Division of Water Quality (Sanitary Sewers).

- c. DP 2011-91: RED MILE MIXED-USE DEVELOPMENT (12/31/11)* - located at 1200 Red Mile Road.
(Council District 11) **(Vision Engineering)**

The Subdivision Committee Recommended: **Postponement**. There were some questions regarding the building orientation to Red Mile Road, the connection to Nelms Avenue and the timing of Red Mile Road improvements.

Should this plan be approved, the following requirements should be considered:

1. Urban County Engineer's acceptance of drainage, storm, and sanitary sewers.
2. Urban County Traffic Engineer's approval of street cross-sections and access.
3. Building Inspection's approval of landscaping and landscape buffers.
4. Addressing Office's approval of street names and addresses.
5. Urban Forester's approval of tree protection plan.
6. Department of Environmental Quality's approval of environmentally sensitive areas.
7. Bike and Pedestrian Planner's approval of bike trails and pedestrian facilities.
8. Greenspace Planner's approval of the treatment of greenways and greenspace.
9. Division of Fire's approval of emergency access and fire hydrant locations.
10. Division of Waste Management's approval of refuse collection.
11. Correct proposed parking and vehicular use area in site statistics.
12. Denote location of construction access points.
13. Addition of tree protection information.
14. Denote number and location of trees to be planted to meet the tree canopy requirements.
15. Correct note #1 and remove notes #2 & 3.
16. Remove off-site private street information.
17. Denote private street maintenance responsibility.
18. Discuss outlot building orientation to Red Mile Road.
19. Discuss access spacing between buildings 23 & 24.
20. Discuss the pedestrian access from building 7 to buildings 8 through 10.
21. Discuss the northernmost access point offset.
22. Discuss the access across from Unity Drive.
23. Discuss access to Nelms Avenue and the adjoining properties from private street.
24. Discuss pedestrian connections from the outlots to Red Mile Road.
25. Discuss status of all interior street sections and Red Mile Road, including bicycle access.
26. Discuss timing of "10' bike/pedestrian facilities" and road widening along frontage/greenway.
27. Discuss "L-L" cross-section dimensions.

* - Denotes date by which Commission must either approve or disapprove plan.

- d. DP 2006-37: NEWMARKET, UNIT 7 and UNIT 1 (AMD) (1/1/12)* – 1321, 1281 and 1501 Deer Haven Lane (a portion of).
(Council District 12) **(EA Partners)**

Note: The Planning Commission originally approved this plan on September 9, 2006 subject to the conditions listed below.

1. Urban County Engineer's acceptance of drainage, storm and sanitary sewers.
2. Urban County Traffic Engineer's approval of parking, circulation, access and street cross-sections.
3. Building Inspection's approval of landscaping.
4. Urban Forester's approval of tree preservation plan.
5. Greenspace Planner's approval of the treatment of greenways/bike trails and pedestrian movement.
6. Division of Fire's approval of emergency access and fire hydrant locations.
7. Division of Solid Waste's approval of refuse collection.
8. Approval of street addresses by e911 staff.
9. Addition of purpose of amendment note.
10. Denote: Lots 13 through 24 will front on Deer Haven Lane.
11. Depict Tree Protection Area (TPA) extending on lots fronting Polo Club Blvd. (per previous plan).
12. Provided the Commission grants a finding of the Land Subdivision Regulations regarding private access easements.
13. Move lot lines out of private access easement, and change status of street to a private alley not less than 20 feet.

As part of the Planning Commission's original approval, the following findings were adopted for the use of private access easements:

1. The applicant could satisfy the Subdivision Regulation's requirement for lot frontage by lotting the proposed lots to Deer Haven Lane. The waiver will allow the creation of a large open space under single ownership, rather than 24 separate lots.
2. The proposed 24 lots will have rear access via a private street alley.
3. A design innovation will be realized that preserves the open space in single ownership without compromising the objectives of the Subdivision Regulations.

The Planning Commission also found that the amended Final Development Plan for DP 2006-37: NEWMARKET, UNIT 7 and UNIT 1 (AMD) was in compliance with the Future Land Use, Community Design, and Infrastructure elements of the Expansion Area Master Plan for the following reasons:

1. The proposed townhouse/single family detached development is an allowable use, and is within the density recommended by the EAMP.
2. The applicant has designed this townhouse development to face all of the public streets, serving the new townhouse units by way of a private alley to the rear. The applicant will integrate the townhouse units with the existing single family residential development in the area, while creating pedestrian corridors to the proposed open spaces that all residents in the neighborhood will be able to enjoy.
3. The EAMP requires a sanitary sewer trunk line on the subject property, which has been built and dedicated to the Urban County Government.

Note: The applicant now requests reapproval of the plan. Article 23A of the Zoning Ordinance has not been materially amended since this plan was originally approved.

The Subdivision Committee Recommended: **Reapproval**, subject to the original conditions, revising the following:

4. Urban Forester's approval of tree preservation plan and required street tree information.

- e. PLAN 2007-82F: SHARKEY PROPERTY, UNIT 3 (7/12/07)* – located at Towne Square Park.
(Council District 12) **(EA Partners)**

Note: The Planning Commission originally approved this plan on May 10, 2007, and reapproved it on August 14, 2008, subject to the following conditions:

1. Urban County Engineer's acceptance of drainage, storm and sanitary sewers.
2. Urban County Traffic Engineer's approval of street cross-sections and access.
3. Building Inspection's approval of landscaping and required street tree information.
4. Approval of street addressing by e911 staff.
5. Urban Forester's approval of tree preservation plan.
6. Addition of utility and street light easements as required by the utility companies and the Urban County Traffic Engineer.
7. Correct site statistics.
8. Label Lot 44 and the parking area in Unit 2-C.
9. Identify lot frontage and access for Lots 45-49 per the approved development plan.

Section 1 was recorded on August 8, 2007 and Section 2 was recorded on February 19, 2009. The applicant is now requesting a reapproval of the remaining portions of Unit 3.

* - Denotes date by which Commission must either approve or disapprove plan.

The Staff Recommends: **Reapproval**, subject to the original conditions, revising the following:

3. Building Inspection's approval of landscaping ~~and required street tree information~~.
5. Urban Forester's approval of tree preservation plan ~~and required street tree information~~.

C. PERFORMANCE BONDS AND LETTERS OF CREDIT – Any bonds or letters of credit requiring Commission action will be considered at this time. The Division of Engineering will report at the meeting.

V. ZONING ITEMS - The Zoning Committee met on Thursday, November 3, 2011, at 1:30 p.m. in the Division of Planning Office. The meeting was attended by Commission members Carla Blanton, Mike Cravens, Lynn Roche-Phillips, and Patrick Brewer. The Committee reviewed applications, and made recommendations on zoning items as noted.

A. ABBREVIATED PUBLIC HEARINGS ON ZONE MAP AMENDMENTS AND RELATED PLANS

The staff will call for objectors to determine which petitions are eligible for abbreviated hearings.

Abbreviated public hearings will be held on petitions meeting the following criteria:

- The staff has recommended approval of the zone change petition and related plan(s)
- The petitioner concurs with the staff recommendations
- Petitioner waives oral presentation, but may submit written evidence for the record
- There are no objections to the petition

B. FULL PUBLIC HEARINGS ON ZONE MAP AMENDMENTS AND RELATED PLANS – Following abbreviated hearings, the remaining petitions will be considered.

The procedure for these hearings is as follows:

- Staff Reports (30 minute maximum)
- Petitioner's report(s) (30 minute maximum)
- Citizen Comments
 - (a) proponents (10 minute maximum OR 3 minutes each)
 - (b) objectors (30 minute maximum) (3 minutes each)
- Rebuttal & Closing Statements
 - (a) petitioner's comments (5 minute maximum)
 - (b) citizen objectors (5 minute maximum)
 - (c) staff comments (5 minute maximum)
- Hearing closed and Commission votes on zone change petition and related plan(s)

Note: Requests for additional time, stating the basis for the request, must be submitted to the staff no later than two days prior to the hearing. The Chair will announce its decision at the outset of the hearing.

1. URBAN COUNTY PLANNING COMMISSION ZONING MAP AMENDMENT

1. **MAR 2011-15: URBAN COUNTY PLANNING COMMISSION** - petition for a zone map amendment to modify a Neighborhood Design Character Overlay (ND-1) zone for 53.7± net (67.5± gross) acres, for properties located at 601-821 Cooper Drive, 1212-1251 Eldemere Road, 1203-1304 Kastle Road, 600-818 Montclair Drive, 1213-1283 Scoville Road, 1200-1252 Summit Drive, and 1500-1600 Bates Creek Road (even addresses only).

Proposed Design Standard Amendment:

EXISTING STANDARD:

3. Landscaping Requirements
 - a. No front yard fences or walls allowed, except for properties facing Cooper Drive and Bates Creek Road. Permitted fences may be up to 4 feet in height and a minimum of 2 feet from the sidewalk, parallel to the public right-of-way.
 - b. Allowable wall/fence materials include, but are not limited to: brick; stone; wood and iron. Chain link fences are prohibited.

PROPOSED AMENDMENT:

3. Landscaping Requirements
 - a. No front yard fences or freestanding walls allowed, except for properties facing Cooper Drive and Bates Creek Road.
 - i. Permitted fences may be up to 4 feet in height and a minimum of 2 feet from the sidewalk, parallel to the public right-of-way.
 - ii. Retaining walls shall be permitted on all properties, subject to a maximum height of 18" above the unbalanced fill.
 - b. Allowable wall/fence materials include, but are not limited to: brick; stone; wood and iron. Chain link fences are prohibited.

(NOTE: Underlined text above indicates a proposed addition to the adopted ND-1 design standards for the Montclair area.)

The Zoning Committee made no recommendation.

The Staff Recommends: **Approval**, for the following reasons:

1. The requested modification of the Neighborhood Design Character (ND-1) overlay zone will not adversely affect the public health, safety or welfare, because retaining walls in front yards do not obstruct or overhang the public sidewalk, or otherwise encroach into the public right-of-way. Additionally, retaining walls will prevent soil erosion from front yards with a moderate to steep slope, thereby keeping the public sidewalk free of silt or soil that might wash out or run off. As such, this will serve to prevent a hazard or nuisance to the public.
2. Permitting retaining walls in front yards throughout the Montclair neighborhood will allow the existing essential character of the overlay district to continue (that is, with walls at or very near the public sidewalk), and is in keeping with the Montclair neighborhood's general intent and preservation goals.
3. Under the provisions of Article 6-7 of the Zoning Ordinance, the following use restriction is proposed to replace the previously approved Design Standard #3 for the subject properties via conditional zoning:
 3. Landscaping Requirements
 - a. No front yard fences or freestanding walls allowed, except for properties facing Cooper Drive and Tates Creek Road.
 - i. Permitted fences may be up to 4 feet in height and a minimum of 2 feet from the sidewalk, parallel to the public right-of-way.
 - ii. Retaining walls shall be permitted on all properties, subject to a maximum height of 18" above the unbalanced fill.
 - b. Allowable wall/fence materials include, but are not limited to: brick; stone; wood and iron. Chain link fences are prohibited.

The modified restriction is appropriate, given the extensive study originally undertaken by the Neighbors of Montclair and more recently supplemented by the staff, and is necessary to maintain that existing character in the future.

V. COMMISSION ITEMS – The Chair will announce that any item a Commission member would like to present will be heard at this time.

- A. BOAR 2011-2: KATHY AND SHAILENDRA CHOPRA** – an appeal of a Board of Architectural Review denial of an iron fence with brick columns near the front of the property, located at 444 Fayette Park.

The staff will report at the meeting.

VI. STAFF ITEMS – The Chair will announce that any item a Staff member would like to present will be heard at this time.

VII. AUDIENCE ITEMS – Citizens may bring a planning related matter before the Commission at this time for general discussion or future action. Items that will NOT be heard are those requiring the Commission's formal action, such as zoning items for early rehearing, map or text amendments; subdivision or development plans, etc. These last mentioned items must be filed in advance of this meeting in conformance with the adopted filing schedule.

VIII. NEXT MEETING DATES –

Zoning Items Public Hearing , Thursday, 1:30 p.m., 2 nd Floor Council Chambers.....	November 17, 2011
Technical Committee, Wednesday, 8:30 a.m., Planning Division Office (Phoenix Building)	November 23, 2011
Subdivision Committee, Thursday, 8:30 a.m., Planning Division Office (Phoenix Building)	December 1, 2011
Zoning Committee, Thursday, 1:30 p.m., Planning Division Office (Phoenix Building)	December 1, 2011
Subdivision Items Public Meeting , Thursday, 1:30 p.m., 2 nd Floor Council Chambers	December 8, 2011

IX. ADJOURNMENT